))

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 81 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME-TAX

Versus

GARDEN SILK MILLS PVT. LTD.

Appearance:

MR AKIL QURESHI FOR MR MANISH R BHATT for Applicant.

MR MJ SHAH WITH MR JP SHAH for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 16/10/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE D.A.MEHTA)

The Tribunal has referred the following question at the instance of the revenue for the opinion of this Court :

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in coming to the conclusion that notwithstanding the provisions of Sec.80VV of the I.T.Act,1961, the assessee was entitled to a deduction in respect of sum of Rs.14,000/- paid by the assessee to the Income-tax Practioners in respect of proceedings of M/s.Garden Silk Weaving Factory ?"

2 The assessment year is 1982-83. The Tribunal has relied upon its own decision for earlier assessment years and the reference has been made in light of the fact that the revenue raised reference for the said earlier assessment years.

3 We have heard Mr.Akil Qureshi, learned Counsel for the revenue and Mr.M.J.Shah, learned Advocate for the respondent-assessee.

4 At the time of hearing our attention was drawn to a decision of this Court in assessee's own case in Income Tax Reference No. 89 of 1985 dated 14/11/2000 pertaining to assessment years 1975-76, 1976-77 and 1978-79, wherein identical controversy was decided by this Court. It is common ground between the parties that the question referred to this Court stands concluded by the aforesaid decision in assessee's own case. For the reasons stated in the said decision we hold that the Tribunal was not right in law in coming to the conclusion that notwithstanding the provision of Section 80VV of the Income Tax Act,1961 the assessee was entitled to deduction in respect of Rs.14,000/- paid by the assessee to income tax practioners in respect of the proceedings of M/s.Garden Silk Weaving Factory. The question referred to us is therefore answered in the negative i.e. in favour of the revenue and against the assessee.

5 The reference stands disposed of accordingly with no order as to costs.

Sd/- Sd/-
(M.S.Shah,J) (D.A.Mehta, J)

m.m.bhatt